

By: Rodriguez

H.B. No. 1208

A BILL TO BE ENTITLED

AN ACT

relating to the storage of firearms surrendered by a person subject to a magistrate's order for emergency protection or protective order as a result of family violence, sexual assault or abuse, stalking, or trafficking of persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 7A.06(a), Code of Criminal Procedure, is amended to read as follows:

(a) Each protective order issued under this chapter, including a temporary ex parte order, must contain the following prominently displayed statements in boldfaced type, capital letters, or underlined:

"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A

1 FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER
2 ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE
3 LOCATION AS PROVIDED BY SECTION 85.0225, FAMILY CODE, FOR THE
4 DURATION OF THIS ORDER."

5 SECTION 2. Article 17.292(g), Code of Criminal Procedure,
6 is amended to read as follows:

7 (g) An order for emergency protection issued under this
8 article must contain the following statements printed in bold-face
9 type or in capital letters:

10 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
11 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
12 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT
13 RESULTS IN FAMILY VIOLENCE OR A STALKING OR TRAFFICKING OFFENSE MAY
14 BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS
15 APPLICABLE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE,
16 IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO
17 YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE
18 OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED
19 IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY
20 OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE
21 PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR
22 IMPRISONMENT. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER ANY
23 FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE LOCATION
24 AS PROVIDED BY SECTION 85.0225, FAMILY CODE, FOR THE DURATION OF
25 THIS ORDER.

26 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS
27 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY

1 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS
2 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
3 UNLESS A COURT CHANGES THE ORDER."

4 SECTION 3. Subchapter B, Chapter 85, Family Code, is
5 amended by adding Section 85.0225 to read as follows:

6 Sec. 85.0225. PROVISIONS FOR SURRENDER OF FIREARM BY PERSON
7 SUBJECT TO PROTECTIVE ORDER. (a) The commissioners court of each
8 county shall designate a secure location to store firearms
9 surrendered under this section.

10 (b) A person subject to a protective order under this
11 chapter or Chapter 7A, Code of Criminal Procedure, or a
12 magistrate's order for emergency protection under Article 17.292,
13 Code of Criminal Procedure, may surrender a firearm possessed by
14 the person to the secure location designated by the commissioners
15 court in the county in which the person resides. The individual
16 responsible for the administration of the designated secure
17 location shall accept the firearm and store it in the secure
18 location until the expiration of the protective order. An
19 individual who accepts a surrendered firearm shall immediately
20 provide the person surrendering the firearm a written copy of the
21 receipt for the firearm and a written notice of the procedure for
22 the return of the firearm.

23 (c) Unless otherwise prohibited by law from possessing a
24 firearm, a person who surrenders a firearm under Subsection (b) is
25 entitled to the return of the firearm on the expiration of the
26 protective order and after making a request to the individual
27 responsible for administering the secure location to which the

1 firearm was surrendered.

2 (d) If the firearm is not requested before the 61st day
3 after the date the protective order expires, the commissioners
4 court shall order the firearm destroyed, sold at public sale by an
5 auctioneer licensed under Chapter 1802, Occupations Code, or
6 forfeited to the state for use by a law enforcement agency in the
7 county, designated by the commissioners court. Only a firearms
8 dealer licensed under 18 U.S.C. Section 923 may purchase a firearm
9 at public sale under this subsection. Proceeds from the sale of an
10 unclaimed firearm under this section, after deduction of auction
11 costs, shall be deposited in the county treasury in a special fund
12 to be used to administer the secure location for the surrender of
13 firearms under this section. An expenditure from the fund may be
14 made only in accordance with a budget approved by the commissioners
15 court.

16 SECTION 4. Section 85.026(a), Family Code, is amended to
17 read as follows:

18 (a) Each protective order issued under this subtitle,
19 including a temporary ex parte order, must contain the following
20 prominently displayed statements in boldfaced type, capital
21 letters, or underlined:

22 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
23 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
24 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

25 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS
26 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY
27 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS

1 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
2 UNLESS A COURT CHANGES THE ORDER."

3 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS
4 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT
5 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL
6 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A
7 FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER
8 ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE
9 LOCATION AS PROVIDED BY SECTION 85.0225, FAMILY CODE, FOR THE
10 DURATION OF THIS ORDER."

11 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
12 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
13 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT
14 RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE
15 MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A
16 SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON
17 FOR AT LEAST TWO YEARS."

18 SECTION 5. (a) The commissioners court of each county shall
19 designate a secure location for the storage of surrendered
20 firearms, as required by this Act, not later than December 1, 2019,
21 and shall begin accepting surrendered firearms on January 1, 2020.

22 (b) The change in law made by this Act relating to the
23 contents of a protective order or a magistrate's order for
24 emergency protection applies to an order issued on or after January
25 1, 2020. An order issued before that date is governed by the law as
26 it existed immediately before the effective date of this Act, and
27 the former law is continued in effect for that purpose.

1 SECTION 6. This Act takes effect September 1, 2019.